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May 7, 2003

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* Presentation in CC Docket No. 01-92

Dear Ms. Dortch:

On May 6, 2003, Steven E. Watkins, of Kraskin, Lesse & Cosson, LLC, Washington, D.C., William Warinner, of Warinner, Gesinger & Associates, LLC, Overland Park, Kansas, Brian Cornelius of Citizens Telephone Company, Higginsville, Missouri, and I met with members of the Commission's Staff on behalf of the Missouri Small Telephone Company Group (MoSTCG). The members of the Commission Staff in attendance were as follows: Tamara Preiss, Steve Morris, and Victoria Schlesinger of the Wireline Competition Bureau, and Jared Carlson, Joseph Levin, Peter Trachtenberg and Stacy Jordan of the Wireless Telecommunications Bureau.

The purpose of our meeting was to discuss issues raised in the above-referenced proceeding. The issues addressed were as follows:

1. T-Mobile's Petition for Declaratory Ruling Regarding Lawfulness of Incumbent LECs' Wireless Termination Tariffs (DA-02-2436).

- Missouri Court of Appeals decision issued April 29, 2003 in Case No. WD 60928 affirming in part and reversing, in part, the Missouri Public Service Commission's decision approving Missouri Small ILECs' Wireless Termination Tariffs (copy of opinion attached - Tab 1).

Significantly, the Court found the tariffs to be lawful and found that they do not conflict with the Act in the absence of an agreement. The Court explained:

“The tariffs reasonably fill a void in the law where the wireless companies routinely circumvent payment to the rural carriers by calculated inaction. The tariffs provide a reasonable and lawful means to secure compensation for the rural carriers in the absence of negotiated agreements.” (Slip opinion, p. 9)

- All major wireless carriers (except T-Mobile and Western) are paying Missouri Small ILECs for terminating wireless traffic in accordance with their Wireless Terminating Tariffs.
- Many RBOCs (e.g. SBC, Qwest) have had (and continue to have) wireless interconnection tariffs which prescribe rates, terms and conditions for terminating wireless traffic in the absence of interconnection/reciprocal compensation agreements.
- Missouri Small ILECs have not refused to negotiate with wireless carriers and the Wireless Termination Tariffs have not prohibited wireless carriers from establishing reciprocal compensation agreements with Missouri Small ILECs (e.g., see attached Missouri Public Service Commission Order Approving Traffic Termination Agreement between BPS Telephone Company and Verizon Wireless - one of 19 such agreements approved by the Missouri Public Service Commission. - Tab 2)

2. Sprint’s Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs (DA-02-1740).

- Not as simple as merely “loading” local NXX codes into Small ILEC end offices – must still provide for transport of call from Small ILEC’s end office to wireless carrier’s POP, usually located at the RBOC tandem.
- Missouri Small ILECs have neither facilities nor certificate/tariff authority to transport traffic beyond their local exchange boundaries – all interexchange traffic is carried by traditional IXC (presubscribed to end-users).

The attached handout was provided to Staff during our meeting.

Respectfully submitted,

/s/ W.R. England, III

W.R. England, III

Attachments

cc (via e-mail): Tamara Preiss
Steve Morris
Victoria Schlesinger
Jared Carlson
Joseph Levin
Peter Trachtenberg
Stacy Jordon